

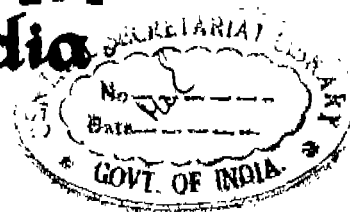


# भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 2  
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 25th July, 1996 :—

BILL No. 48 of 1996

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Eightieth Amendment) Act, 1996.  
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and  
commence-  
ment.

2. In article 81 of the Constitution, in the proviso to clause (3), for the words and figures “be construed as a reference to the 1971 census”, the following shall be substituted, namely:—

Amendment of  
article 81.

“be construed,—

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2), as a reference to the 1991 census”

Amendment of  
article 82.

3. In article 82 of the Constitution, in the third proviso, for the words “readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article”, the following shall be substituted, namely:—

“readjust—

(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 1991 census,

under this article”.

Amendment of  
article 170.

4. In article 170 of the Constitution,—

(a) in clause (2), the proviso to *Explanation* shall be omitted;

(b) in the third proviso to clause (3), for the words “readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause”, the following shall be substituted, namely:—

“readjust—

(i) the allocation of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 1991 census,

under this clause”.

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## STATEMENT OF OBJECTS AND REASONS

The Members of both the Houses had been raising, from time to time, a demand for the delimitation of constituencies. The issue of fresh delimitation of constituencies was gone into by the Committee on Electoral Reforms which had recommended fresh delimitation without affecting the total number of constituencies allocated to various States on the basis of 1971 census. The Government had decided that fresh delimitation should be undertaken on the basis of 1991 census without affecting the existing number of seats allocated to various States on the basis of 1971 census. This requires amendment to the Constitution as at present there is a Constitutional bar with regard to delimitation of constituencies.

2. This Bill seeks to achieve the aforesaid object.

RAMAKANT D. KHALAP.

NEW DELHI;  
*The 24th July, 1996.*

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## BILL NO. 49 OF 1996

*A Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.*

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title and  
commencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1996,

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

## CHAPTER II

## AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

Amendment of  
section 32.

2. In the Representation of the People Act, 1950, in section 32, in sub-section (1), for the words “with fine which may extend to five hundred rupees”, the words “with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine” shall be substituted.

43 of 1950.

## CHAPTER III

## AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of  
section 8.

3. In the Representation of the People Act, 1951 (hereafter in this Chapter referred to as the 1951-Act), in section 8, in sub-section (1),—

43 of 1951.

(a) in clause (j), the word “or” shall be added at the end;

(b) after clause (j), the following clause shall be inserted, namely:—

“(k) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971:”.

69 of 1971.

4. After section 20A of the 1951-Act, the following section shall be inserted, namely:—

Insertion of  
new section  
20B.  
Observers.

**‘20B. (1) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.**

(2) The Observer nominated under sub-section (1) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(3) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

*Explanation.*— For the purposes of sub-section (2) and sub-section (3), “Observer” shall include a Regional Commissioner or any such officer of the Election Commission as has been assigned under this section the duty of watching the conduct of election or elections in a constituency or group of constituencies by the Commission.’

5. In section 30 of the 1951-Act, in clause (d), for the words “twentieth day”, the words “fourteenth day” shall be substituted.

Amendment of  
section 30.

6. In section 33 of the 1951-Act,—

Amendment of  
section 33.

(a) in sub-section (1), for the provisos, the following provisos shall be substituted, namely:—

“Provided that a candidate not setup by a recognised political party, shall not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by ten proposers being electors of the constituency:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday:

Provided also that in the case of a local authorities' constituency, graduates' constituency or teachers' constituency, the reference to “an elector of the constituency as proposer” shall be construed as a reference to ten per cent. of the electors of the constituency or ten such electors, whichever is less, as proposers”;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) Notwithstanding anything contained in sub-section (6) or in any other provisions of this Act, a person shall not be nominated as a candidate for election,—

(a) in the case of a general election to the House of the People (whether or not held simultaneously from all Parliamentary constituencies), from more than two Parliamentary constituencies;

(b) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all Assembly constituencies), from more than two Assembly constituencies in that State;

(c) in the case of a biennial election to the Legislative Council of a State having such Council, from more than two Council constituencies in the State;

(d) in the case of a biennial election to the Council of States for filling two or more seats allotted to a State, for filling more than two such seats;

(e) in the case of bye-elections to the House of the People from two or more Parliamentary constituencies which are held simultaneously, from more than two such Parliamentary constituencies;

(f) in the case of bye-elections to the Legislative Assembly of a State from two or more Assembly constituencies which are held simultaneously, from more than two such Assembly constituencies;

(g) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than two such seats;

(h) in the case of bye-elections to the Legislative Council of a State having such Council from two or more Council constituencies which are held simultaneously, from more than two such Council constituencies.

*Explanation.*—For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notification calling such bye-elections are issued by the Election Commission under section 147, 149, 150 or, as the case may be, 151 on the same date”.

Amendment of  
section 34.

7. In section 34 of the 1951-Act, for sub-section (I), the following sub-section shall be substituted namely:—

“(I) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited, a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand and five hundred rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.”.

Amendment of  
section 38.

8. In section 38 of the 1951-Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) for the purpose of listing the names under sub-section (1), the candidates shall be classified as follows, namely:—

- (i) candidates of recognised political parties;
- (ii) candidates of registered political parties; and
- (iii) other candidates.

(3) The categories mentioned in sub-section (2) shall be arranged in the order specified therein and the names of candidates in each category shall be arranged in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be prescribed.”.

9. For section 52 of the 1951-Act, the following section shall be substituted namely:—

Substitution of new section for section 52.

'52. (1) If a candidate set up by a recognised political party,—

Death of a candidate of a recognised political party before poll.

(a) dies at any time after 11.00 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37, dies,

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, announce an adjournment of the poll to a date to be notified later and report the fact to the Election Commission and also to the appropriate authority:

Provided that no order for adjourning a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate.

(2) The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1), call upon the recognised political party, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognised political party and the provisions of sections 30 to 37 shall, so far as may be, apply in relation to such nomination as they would apply to other nominations:

Provided that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the adjournment of the poll shall be ineligible for being nominated as a candidate for the election after such adjournment.

(3) Where a list of contesting candidates had been published under section 38 before the adjournment of the poll under sub-section (1), the returning officer shall again prepare and publish a fresh list of contesting candidates under that section so as to include the name of the candidate who has been validly nominated under sub-section (2).

*Explanation.*—For the purposes of this section and section 38, "recognised political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.'

10. For section 126 of the 1951-Act, the following section shall be substituted, namely:—

Substitution of new section for section 126.

'126. (1) No person shall—

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.

in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(3) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.

Amendment of  
section 127.

11. In section 127 of the 1951-Act,—

(a) in sub-section (1), for the words "three months or with fine which may extend to one thousand rupees", the words "six months or with fine which may extend to two thousand rupees" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) An offence punishable under sub-section (1) shall be cognizable."

Substitution of  
new section for  
section 133.

12. For section 133 of the 1951-Act, the following section shall be substituted, namely:—

"133. If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine."

Penalty for illegal hiring or procuring of conveyance at elections.

Insertion of  
new section  
134B.

13. After section 134A of the 1951-Act, the following section shall be inserted, namely:—

"134B. (1) No person, other than the returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and order, at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station.

Prohibition of going armed to or near a polling station.

54 of 1959.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) Notwithstanding anything contained in the Arms Act, 1959, where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

54 of 1959.

(4) An offence punishable under sub-section (2) shall be cognizable."

Amendment of  
section 135.

14. In section 135 of the 1951-Act, in sub-section (1), for the word "fraudulently", the word "unauthorisedly" shall be substituted.

Amendment of  
section 135A.

15. Section 135A of the 1951-Act shall be renumbered as sub-section (1) thereof and,—

(i) in sub-section (1) as so renumbered,—

(a) for the portion beginning with the words "shall not be less than six months" and ending with the words "extend to three years and with fine", the following shall be substituted, namely:—

"shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the



Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.”;

(b) in the *Explanation*,—

(A) for the words “this section”, occurring in the opening portion, the words, “this sub-section and section 20B” shall be substituted;

(B) in clause (b), for the words “prevent others from voting”, the words “prevent others from free exercise of their right to vote” shall be substituted;

(C) in clause (c), for the word “threatening”, the words “coercing or intimidating or threatening directly or indirectly”, shall be substituted;

(ii) after sub-section (I) as so renumbered and the *Explanation* thereto, the following sub-section shall be inserted, namely:—

“(2) An offence punishable under sub-section (I), shall be cognizable.”

16. After section 135A of the 1951-Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
135B and  
135C.

“135B. (I) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

Grant of paid  
holiday to em-  
ployees on the  
day of poll.

(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (I) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3) If an employer contravenes the provisions of sub-section (I) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

135C. (I) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

Liquor not to  
be sold, given  
or distributed  
on polling day.

(2) Any person who contravenes the provisions of sub-section (I), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.”

17. After section 151 of the 1951-Act, the following section shall be inserted, namely:—

Insertion of  
new section  
151A.

“151A. Notwithstanding anything contained in section 147, section 149, section 150 and section 151, a bye-election for filling any vacancy referred to in any of the said sections shall be held within a period of six months from the date of the occurrence of the vacancy:

Time limit for  
filling vacan-  
cies referred to  
in sections 147,  
149, 150 and  
151.

Provided that nothing contained in this section shall apply if—

(a) the remainder of the term of a member in relation to a vacancy is less than one year;

(b) The Election Commission in consultation with the Central Government certifies that it is difficult to hold the bye-election within the said period.”.

### STATEMENT OF OBJECTS AND REASONS

Electoral reform is a continuous process and the two enactments dealing with elections to Parliament and the State Legislatures, namely, the Representation of the People Act, 1950 and the Representation of the People Act, 1951 (hereinafter referred to as “the 1951-Act”) have been amended from time to time for the purpose. Proposals for comprehensive amendments to Electoral Law received from the Election Commission and others considered by the Committee on Electoral Reforms in 1990 have been under the consideration of Government. Keeping in view the proposals received and the views expressed by the various political parties, it has been decided to bring about comprehensive amendments in the two aforementioned enactments. The present Bill seeks to give effect to the said recommendations. The salient features of the Bill are as under:

(1) Section 8 of the 1951-Act is proposed to be amended to provide that a person convicted of an offence punishable under section 2 or section 3 of the Prevention of Insults to National Honour Act, 1971 shall be disqualified for a period of six years from the date of such conviction.

(2) It is proposed to insert a new section 20B in the 1951-Act to enable the Election Commission to nominate Observers to watch the conduct of elections and such Observers will have the power to direct the returning officers to stop the counting of votes or not to declare the result in certain contingencies like booth capturing, etc.

(3) Section 30 of the 1951-Act is proposed to be amended to provide for the reduction of the time for campaign to 14 days.

(4) Section 33 of the 1951-Act is proposed to be amended to provide that—

(a) nomination of a candidate not set up by a recognised political party has to be subscribed by ten persons being electors from the constituency;

(b) a person shall not be nominated as a candidate for election in more than two constituencies of the same class.

(5) Section 34 of the 1951-Act is proposed to be amended to increase the security deposits of candidates. It is proposed to provide that for Parliament and Assembly elections the security deposit shall be five thousand rupees and for candidates belonging to Scheduled Castes and Scheduled Tribes two thousand five hundred rupees.

(6) Sub-section (2) of section 38 of the 1951-Act which provides for listing of the names, etc., of the contesting candidates is proposed to be amended so as to provide that for the purposes of listing, candidates shall be classified into three categories, namely, candidates of recognised political parties, candidates of registered political parties and other candidates. The said category shall be arranged in the order specified therein and the names of the candidates shall be arranged in alphabetical order.

(7) Section 52 of the 1951-Act is proposed to be amended to provide that on the death of a candidate an election shall, instead of being countermanded, only be adjourned.

(8) New Section 151A is proposed to be inserted in the 1951-Act to provide for holding of bye-elections within a period of six months from the date of occurrence of the vacancy.

(9) Certain further amendments are also proposed to ensure peaceful conduct of elections by reducing the influence of money and muscle power by prohibiting the carrying of arms, etc., on the polling day.

2. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

RAMAKANT D. KHALAP.

*The 24th July, 1996.*

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#### FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to insert a new section 20B in the Representation of the People Act, 1951 which provides for the appointment of Observers by the Election Commission during election. It is not possible to readily estimate the exact amount which may be required for these purposes. The expenditure with regard to the appointment of Observers would however, be nominal.

2. The Bill, when enacted, is not likely to involve any other recurring or non-recurring expenditure from the Consolidated Fund of India.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill seeks to insert a new section 135C in the Act. Under sub-section (3) of that section spirituous, fermented or intoxicating liquors or other substances of a like nature found in the possession of any person are liable to confiscation and the same will be disposed of in such manner as may be laid down in the rules.

2. The matters in respect of which power is proposed to be given to the Central Government to make rules are matters of administrative detail and it is not possible to incorporate them in the Act. The delegation of legislative power is, therefore, of a normal character.

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S. GOPALAN,  
*Secretary-General.*

